

## Federal Acquisition Regulation

## 26.401

<https://www.acquisition.gov> to determine the availability of contractors for debris removal, distribution of supplies, reconstruction, and other disaster or emergency relief activities inside the United States and outlying areas.

(b) A list of prospective vendors voluntarily participating in the Disaster Response Registry can be retrieved using the System for Award Management (SAM) search tool, which can be accessed via <https://www.acquisition.gov>. These vendors may be identified by selecting the criteria for “Disaster Response Contractors”. Contractors are required to register with SAM in order to gain access to the Disaster Response Registry.

[74 FR 52849, Oct. 14, 2009, as amended at 77 FR 188, Jan. 3, 2012; 78 FR 37679, June 21, 2013]

### 26.206 Solicitation provision and contract clauses.

(a) The contracting officer shall insert the provision at 52.226-3, Disaster or Emergency Area Representation, in solicitations involving the local area set-aside. For commercial items, see 12.301(e)(4).

(b) The contracting officer shall insert the clause at 52.226-4, Notice of Disaster or Emergency Area Set-aside in solicitations and contracts involving local area set-asides.

(c) The contracting officer shall insert the clause at 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area, in all solicitations and contracts that involve local area set-asides.

[72 FR 63087, Nov. 7, 2007. Redesignated at 74 FR 52849, Oct. 14, 2009]

### Subpart 26.3—Historically Black Colleges and Universities and Minority Institutions

SOURCE: 62 FR 12703, Mar. 17, 1997, unless otherwise noted.

#### 26.300 Scope of subpart.

(a) This subpart implements Executive Order 12928 of September 16, 1994, which promotes participation of Historically Black Colleges and Universities (HBCUs) and Minority Institutions (MIs) in Federal procurement.

(b) This subpart does not pertain to contracts performed entirely outside the United States and its outlying areas.

[62 FR 12703, Mar. 17, 1997, as amended at 68 FR 28083, May 22, 2003]

#### 26.301 [Reserved]

#### 26.302 General policy.

It is the policy of the Government to promote participation of HBCUs and MIs in Federal procurement.

#### 26.303 Data collection and reporting requirements.

Executive Order 12928 requires periodic reporting to the President on the progress of departments and agencies in complying with the laws and requirements mentioned in the Executive order.

#### 26.304 Solicitation provision.

Insert the provision at 52.226-2, Historically Black College or University and Minority Institution Representation, in solicitations exceeding the micro-purchase threshold, for research, studies, supplies, or services of the type normally acquired from higher educational institutions.

[64 FR 36224, July 2, 1999, as amended at 79 FR 61751, Oct. 14, 2014]

### Subpart 26.4—Food Donations to Nonprofit Organizations

SOURCE: 74 FR 11831, Mar. 19, 2009, unless otherwise noted.

#### 26.400 Scope of subpart.

This section implements the Federal Food Donation Act of 2008 (42 U.S.C. 1792).

[74 FR 11831, Mar. 19, 2009, as amended at 79 FR 24210, Apr. 29, 2014]

#### 26.401 Definitions.

As used in this subpart—

*Apparently wholesome food* means food that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions, in accordance with (b)(2) of

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the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)).

*Excess food* means food that—

- (1) Is not required to meet the needs of the executive agencies; and
- (2) Would otherwise be discarded.

*Food-insecure* means inconsistent access to sufficient, safe, and nutritious food.

*Nonprofit organization* means any organization that is—

- (1) Described in section 501(c) of the Internal Revenue Code of 1986; and
- (2) Exempt from tax under section 501(a) of that Code.

### 26.402 Policy.

The Government encourages executive agencies and their contractors, to the maximum extent practicable and safe, to donate excess apparently wholesome food to nonprofit organizations that provide assistance to food-insecure people in the United States.

### 26.403 Procedures.

(a) In accordance with the Federal Food Donation Act of 2008 an executive agency shall comply with the following:

(1) *Encourage donations.* In the applicable contracts stated at section 26.404, encourage contractors, to the maximum extent practicable and safe, to donate apparently wholesome excess food to nonprofit organizations that provide assistance to food-insecure people in the United States.

(2) *Costs.* (i) In any case in which a contractor enters into a contract with

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an executive agency under which apparently wholesome food is donated to food-insecure people in the United States, the head of the executive agency shall not assume responsibility for the costs and logistics of collecting, transporting, maintaining the safety of, or distributing excess, apparently wholesome food to food-insecure people in the United States under this Act.

(ii) The Government will not reimburse any costs incurred by the contractor against this contract or any other contract for the donation of Federal excess foods. Any costs incurred for Federal excess food donations are not considered allowable public relations costs in accordance with 31.205–1(f)(8).

(3) *Liability.* An executive agency (including an executive agency that enters into a contract with a contractor) and any contractor making donations pursuant to this Act shall be exempt from civil and criminal liability to the extent provided under the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791).

[74 FR 11831, Mar. 19, 2009, as amended at 79 FR 24210, Apr. 29, 2014]

### 26.404 Contract clause.

Insert the clause at 52.226–6, Promoting Excess Food Donation to Nonprofit Organizations, in solicitations and contracts greater than \$25,000 for the provision, service, or sale of food in the United States.